

REMARKS

Reconsideration and allowance in view of the foregoing amendments and following remarks are respectfully requested.

In the Office Action, the Examiner objected to claims 13 and 16-20 for their informalities and rejected claims 9-10 and 12-13 under 35 U.S.C. §112, second paragraph, as being indefinite. The Examiner also rejected claims 1-4 and 19 under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 5,321,501 to Swanson et al and rejected claim 18 under 35 U.S.C. §103(a) as being alleged unpatentable over Swanson in view of U.S. Patent No. 6,111,645 to Tearney et al. The Examiner, however, indicated that claims 5-8, 11, 14, and 15 were allowable and claims 9, 10, 12, and 13 would be allowable if rewritten or amended to overcome the objections to minor informalities.

In this Amendment, claims 1-4 and 18-20 have been canceled without prejudice, claims 7, 10, 13, and 16-17 have been amended, and a new claim 21 has been added. After entry of this Amendment, claims 5-17 and 21 are pending, of which claim 5 is the solely independent claim.

Applicant appreciates the indication of the allowability of claims 5-8, 11, 14, and 15, and the potential allowability of claims 9-10 and 12-13. To overcome the objection of informalities and the rejection of indefiniteness under 35 U.S.C. 112, second paragraph, Applicant has amended claims 7, 10, 13, and 16-17 to be in a better form. In particular, Applicant has amended original multiple dependent claim 7 to be dependent from claim 6 and added new claim 21 that includes the limitations of original claim 7 but to be dependent from claim 5. As such, it is respectfully believed that these amendments facilitates these claims to be in condition for allowance.

Furthermore, as claims 1-4 and 18-20 have been canceled, the rejections of these claims under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) are now moot.

Accordingly, Applicant respectfully submits that pending claims 5-17 and 21 are now in condition for allowance.

Please note that the Title was amended in February 3, 2004 to read -- An Optical System And Optical Apparatus Capable Of Switching Between Optical Coherence Tomography Observation And Optical Coherence Microscopy Observation. Please update the records to reflect the Title as amended.

Conclusion.

All matters having been addressed and in view of the foregoing, Applicant respectfully request the entry of this Amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.

Applicant's Counsel remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter. If any point remains in issue in which the Examiner feels may be best resolved through a personal or telephone interview, please contact the Undersigned at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number **03-3975**. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,
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